

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVOOD KHADEMI,

Plaintiff,

v.

SOUTH PLACER CO. JAIL, et al.,

Defendants.

No. 2:21-cv-1498 KJM DB P

ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested appointment of counsel and an investigator.

The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

The test for exceptional circumstances requires the court to evaluate the plaintiff's likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not

1 establish exceptional circumstances that would warrant a request for voluntary assistance of  
2 counsel. In the present case, the court does not find the required exceptional circumstances.

3 With respect to plaintiff's request for the appointment of an investigator, the court is  
4 aware of no authority permitting it to provide plaintiff an investigator. See Murphy v. Rodriguez,  
5 No. 1:19-cv-0206 DAD EPG PC, 2020 WL 3868470, at \*1 (E.D. Cal. July 9, 2020);  
6 Georgacarakos v. Wiley, No. 07-cv-1712-MSK-MEH, 2009 WL 440934, at \*7 (D. Colo. Feb. 23,  
7 2009) (in forma pauperis statute does not provide for the appointment of investigators).  
8 Plaintiff's request for an investigator will be denied.

9 Accordingly, IT IS HEREBY ORDERED that plaintiff's motions for the appointment of  
10 counsel and for an investigator (ECF No. 13) is denied.

11 Dated: October 15, 2021

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14 DEBORAH BARNES  
15 UNITED STATES MAGISTRATE JUDGE  
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